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pool operator, introducing broker, or a leverage transaction merchant, that futures commission merchant, retail foreign exchange dealer, commodity trading advisor, commodity pool operator, introducing broker or leverage transaction merchant must, within thirty days after the occurrence of either of the following, file a notice thereof with the National Futures Association indicating:

(i) The failure of that person to become associated with the futures commission merchant, retail foreign exchange dealer, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, and the reasons therefor; or

(ii) The termination of the association of the associated person with the futures commission merchant, retail foreign exchange dealer, commodity trading advisor, commodity pool operator, introducing broker, or leverage transaction merchant, and the reasons therefor.

(2) Each person registered as, or applying for registration as, a futures commission merchant, retail foreign exchange dealer, commodity trading advisor, commodity pool operator, introducing broker or leverage transaction merchant must, within thirty days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the National Futures Association.

(3) Any notice required by paragraph (c) of this section must be filed on Form 8-T or on a Uniform Termination Notice for Securities Industry Registration.

(d) Each contract market or derivatives transaction execution facility that has granted trading privileges to a person who is registered, has received a temporary license, or has applied for registration as a floor broker or floor trader, must notify the National Futures Association within sixty days after such person has ceased having trading privileges on such contract

market or derivatives transaction execution facility.

(Approved by the Office of Management and Budget under control number 3038-0023)

[45 FR 80491, Dec. 5, 1980, as amended at 47 FR 27551, June 25, 1982; 48 FR 35297, Aug. 3, 1983; 49 FR 5525, Feb. 13, 1984; 49 FR 39533, Oct. 9, 1984; 51 FR 34460, Sept. 29, 1986; 53 FR 8433, Mar. 15, 1988; 54 FR 19558, May 8, 1989; 58 FR 19592, Apr. 15, 1993; 66 FR 53518, Oct. 23, 2001; 67 FR 38875, June 6, 2002; 72 FR 63104, Nov. 8, 2007; 75 FR 55426, Sept. 10, 2010]

§ 3.33 Withdrawal from registration.

(a) A futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant, floor broker or floor trader may request that its registration be withdrawn in accordance with the requirements of this section if:

(1) The registrant has ceased, or has not commenced, engaging in activities requiring registration in such capacity;

(2) The registrant is exempt from registration in such capacity; or

(3) The registrant is excluded from the persons or any class of persons required to be registered in such capacity: *Provided*, That the National Futures Association or the Commission, as appropriate, may consider separately each capacity for which withdrawal is requested in acting upon such a request.

(b) A request for withdrawal from registration as a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, or leverage transaction merchant must be made on Form 7-W, and a request for withdrawal from registration as a floor broker or floor trader must be made on Form 8-W, completed and filed with National Futures Association in accordance with the instructions thereto. The request for withdrawal must be made by a person duly authorized by the registrant and must specify:

(1) The name of the registrant for which withdrawal is being requested;

(2) The registration capacities for which withdrawal is being requested;

(3) The name, address, and telephone number of the person who will have

custody of the books and records of the registrant; the address where such books and records will be located; and a statement that such person is authorized to make them available in accordance with the requirements of § 1.31 of this chapter;

(4) The applicable basis under paragraph (a) of this section for requesting withdrawal for each capacity for which withdrawal is requested.

(5) If withdrawal is requested under paragraph (a)(2) or (a)(3) of this section, then, with respect to each capacity for which withdrawal is requested, the section of the Act, regulations, or other authority permitting the exemption or exclusion, and the circumstances which entitle the registrant to claim such exemption or exclusion.

(6) If a basis for withdrawal from registration under paragraph (a)(1) of this section is that the registrant has ceased engaging in activities requiring registration, then, with respect to each capacity for which the registrant has ceased such activities:

(i) That all customer, retail forex customer or option customer agreements, if any, have been terminated;

(ii) That all customer, retail forex customer or option customer positions, if any, have been transferred on behalf of customers or option customers or closed;

(iii) That all customer, retail forex customer or option customer cash balances, securities, or other property, if any, have been transferred on behalf of customers, retail forex customers or option customers or returned, and that there are no obligations to customers, retail forex customers or option customers outstanding;

(iv) In the case of a commodity pool operator, that all interests in, and assets of, any commodity pool have been redeemed, distributed, or transferred, on behalf of the participants therein, and that there are no obligations to such participants outstanding;

(v) In the case of a leverage transaction merchant:

(A) Either that all leverage customer agreements, if any, and all leverage contracts have been terminated, and that all leverage customer cash bal-

ances, securities or other property, if any, have been returned, or

(B) Alternatively, that pursuant to Commission approval, the leverage contract obligations of the leverage transaction merchant have been assumed by another leverage transaction merchant and all leverage customer cash balances, securities or other property, if any, have been transferred to such leverage transaction merchant on behalf of leverage customers or returned, and that there are no obligations to leverage customers outstanding;

(vi) The nature and extent of any pending customer, retail forex customer, option customer, leverage customer, or commodity pool participant claims against the registrant, and, to the best of the registrant's knowledge and belief, the nature and extent of any anticipated or threatened customer, option customer, leverage customer, or commodity pool participant claims against the registrant; and

(vii) In the case of a futures commission merchant or a retail foreign exchange dealer which is a party to a guarantee agreement, that all such agreements have been or will be terminated in accordance with the provisions of § 1.10(j) of this chapter not more than thirty days after the filing of the request for withdrawal from registration.

(c) Where a leverage transaction merchant is requesting withdrawal from registration in that capacity and the basis for withdrawal under paragraph (a)(1) of this section is that it has ceased engaging in activities requiring registration, the request for withdrawal must be accompanied by a form 2-FR which contains the information specified in § 31.13(f) of this chapter as of a date not more than 30 days prior to the date of the withdrawal request.

(d) [Reserved]

(e) A request for withdrawal from registration as a futures commission merchant, retail foreign exchange dealer, introducing broker, commodity trading advisor, commodity pool operator, leverage transaction merchant on Form 7-W, and a request for withdrawal from registration as a floor broker or floor trader on Form 8-W,

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must be filed with the National Futures Association and a copy of such request must be sent by the National Futures Association within three business days of the receipt of such withdrawal request to the Commodity Futures Trading Commission, Division of Clearing and Intermediary Oversight, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. In addition, any floor broker or floor trader requesting withdrawal from registration must file a copy of his Form 8-W with each contract market that has granted him trading privileges. Within three business days of any determination by the National Futures Association under § 3.10(d) to treat the failure by a registrant to file an annual Form 7-R as a request for withdrawal, the National Futures Association shall send the Commission notice of that determination.

(f) A request for withdrawal from registration will become effective on the thirtieth day after receipt of such request by the National Futures Association, or earlier upon written notice from the National Futures Association (with the written concurrence of the Commission) of the granting of such request, unless prior to the effective date:

(1) The Commission or the National Futures Association has instituted a proceeding to suspend or revoke such registration;

(2) The Commission or the National Futures Association imposes, or gives notice by mail which notice shall be complete upon mailing, that it intends to impose terms or conditions upon such withdrawal from registration;

(3) The Commission or the National Futures Association notifies the registrant by mail, which notice shall be complete upon mailing, or the registrant otherwise is notified that it is the subject of an investigation to determine, among other things, whether such registrant has violated, is violating, or is about to violate the Act, rules, regulations or orders adopted thereunder;

(4) The Commission or the National Futures Association requests from the registrant further information pertaining to its request for withdrawal from registration; or

(5) The Commission or National Futures Association determines that it would be contrary to the requirements of the Act, or of any rule, regulation or order thereunder, or to the public interest to permit such withdrawal from registration.

(g) Withdrawal from registration in one capacity does not constitute withdrawal from registration in any other capacity.

(h) Withdrawal from registration does not constitute a release from liability for any violation of the Act or of any rule, regulation, or order thereunder.

(Approved by the Office of Management and Budget under control number 3038-0008)

[46 FR 48917, Oct. 5, 1981]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 3.33, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

Subpart B—Temporary Licenses

§ 3.40 Temporary licensing of applicants for associated person, floor broker or floor trader registration.

(a) Notwithstanding any other provision of these regulations and pursuant to the terms and conditions of this subpart:

(1) The National Futures Association may grant a temporary license to any applicant for registration as an associated person upon the contemporaneous filing with the National Futures Association of:

(i) A Form 8-R, properly completed in accordance with the instructions thereto; and

(ii) The sponsor's certification required by § 3.12(c): *Provided, however*, that the fingerprints of the applicant on a fingerprint card provided by the National Futures Association for that purpose must be filed with the National Futures Association within 20 days following the date the temporary license is issued; *and, provided further*, that failure to file the fingerprints within this period will result in the termination of the temporary license immediately upon notice to the applicant's sponsor that the National Futures Association has not received the applicant's fingerprints.